

**FIFTIETH DAY**

(Tuesday, April 11, 1995)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

Rabbi Samuel M. Stahl, Temple Beth-El, San Antonio, offered the invocation as follows:

O Lord, our God, as this body of Texas Senators gathers together this morning, we ask Your blessings upon all their deliberations. O God, we fear that some in our state believe that there is only one way to serve You and to worship You, that all other ways are wrong. In this light, O God, we pose several questions to You. We call You God, but what color is Your face? Is it brown or black or white or yellow? God, do You hear prayers best in a church, a cathedral, a synagogue, or a mosque? God, what language do You speak? Hebrew, English, Arabic, Latin, Aramaic, or Greek? Is Your favorite symbol the Star of David, the crucifix, the cross, the wheel, or the crescent? Is Your true revelation to be found in the Hebrew Bible, the New Testament, or the Koran? O God, these questions of ours are as foolish as our conflicts. Within our people they engender bigotry and promote bloodshed.

Therefore, God, teach us this morning that with our differences we are equally worthy in Your eyes. You have placed the same amount of Your divinity in every man, woman, and child on earth. Remind us that while we are equally sacred, we are not clones. Each of us has something unique and distinctive to offer the other. The mere fact that we have differences makes us better co-workers with each other, and better legislators of Texas. Therefore, as we open this session today, we praise You, O God, for fostering oneness within diversity, and unity without uniformity. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**CO-AUTHOR OF SENATE BILL 718**

On motion of Senator Moncrief and by unanimous consent, Senator Armbrister will be shown as Co-author of **S.B. 718**.

**CO-AUTHOR OF SENATE BILL 953**

On motion of Senator Truan and by unanimous consent, Senator Barrientos will be shown as Co-author of **S.B. 953**.

**CO-AUTHOR WITHDRAWN**

Senator Sibley requested the removal of his name as Co-author of **S.R. 649**.

The request was granted.

**INTRODUCTION OF  
BILLS AND RESOLUTIONS POSTPONED**

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

**CAPITOL PHYSICIAN**

Senator Sims was recognized and presented Dr. J. P. McCurdy of Marble Falls as the "Doctor for the Day."

The Senate welcomed Dr. McCurdy and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**GUEST PRESENTED**

Senator Lucio was recognized and introduced to the Senate the President and General Counsel of the Mexican American Legal Defense and Education Fund (MALDEF), Antonia Hernandez.

The Senate welcomed its guest.

(Senator Bivins in Chair)

**MESSAGE FROM THE HOUSE**

House Chamber  
April 11, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

**H.B. 1863**, Relating to eligibility for and the provision of services and programs for needy people, including children; to assistance in becoming or remaining self-dependent; and to the responsibility of parents and others to assist needy people, including children, in becoming or remaining self-dependent; providing penalties.

**H.C.R. 91**, Granting the National Hispanic Institute permission to use the house and senate chambers July 26-28, 1995.

**H.C.R. 157**, In memory of Pearland Mayor C. V. "Vic" Coppinger.

**S.C.R. 116**, In memory of Selena Quintanilla-Perez.

Respectfully,

Cynthia Gerhardt, Chief Clerk  
House of Representatives

**SENATE RESOLUTION 470**

Senator Barrientos offered the following resolution:

**S.R. 470**, Recognizing April 11, 1995, as Adult Day Care Day in Texas.

The resolution was again read.

The resolution was previously adopted on Monday, March 20, 1995.

**GUESTS PRESENTED**

Senator Barrientos was recognized and introduced to the Senate representatives of the Texas Adult Day Care Association.

The Senate welcomed its guests.

**MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas  
April 11, 1995

TO THE SENATE OF THE SEVENTY-FOURTH LEGISLATURE,  
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE TEXAS BOARD OF MENTAL HEALTH  
AND MENTAL RETARDATION for terms to expire January 31, 2001:

JAMES I. PERKINS  
P.O. Box 288  
Rusk, Texas 75785

Mr. Perkins will be replacing J. L. Huffines of Lewisville, whose term expired.

CHARLES M. COOPER  
6331 Chesley Lane  
Dallas, Texas 75214

Mr. Cooper will be replacing Dr. Anne Rinker Race of Dallas, whose term expired.

RODOLFO "RUDY" ARREDONDO, JR., Ed.D.  
3212 40th Street  
Lubbock, Texas 79413

Dr. Arredondo will be replacing Dr. Fermin Sarabia of San Antonio, whose term expired.

TO BE PRESIDING JUDGE OF THE SIXTH ADMINISTRATIVE  
JUDICIAL REGION for a term to expire four years from date of  
qualification:

THE HONORABLE STEPHEN B. ABLES  
506 Oakland Hills Lane  
Kerrville, Texas 78028

Judge Ables will be replacing Judge William E. Moody of El Paso, whose term expired.

Respectfully submitted,

/s/George W. Bush  
Governor of Texas

### RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled resolutions in the presence of the Senate:

H.C.R. 51  
H.C.R. 52  
H.C.R. 118  
H.C.R. 138  
H.C.R. 140

(President in Chair)

### SENATE BILL 25 WITH HOUSE AMENDMENTS

Senator Sibley called **S.B. 25** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Amendment

Amend **S.B. 25** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to exemplary damages in civil suits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 41, Civil Practice and Remedies Code, is amended to read as follows:

#### CHAPTER 41. EXEMPLARY DAMAGES

Sec. 41.001. DEFINITIONS. In this chapter:

(1) "Claimant" means a party, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff, seeking recovery of exemplary damages. In a cause of action in which a party seeks recovery of exemplary damages related to injury to another person, damage to the property of another person, death of another person, or other harm to another person, "claimant" includes both that other person and the party seeking recovery of exemplary damages.

(2) "Clear and convincing" means the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(3) "Defendant" means a party, including a counterdefendant, cross-defendant, or third-party defendant, from whom a claimant seeks relief with respect to exemplary damages.

(4) "Economic damages" means compensatory damages for pecuniary loss; the term does not include exemplary damages or damages for physical pain and mental anguish, loss of consortium, disfigurement, physical impairment, or loss of companionship and society.

(5) ~~[(3)]~~ "Exemplary damages" means any damages awarded as ~~[an example to others, as]~~ a penalty~~;~~ or by way of punishment. "Exemplary damages" includes punitive damages.

(6) ~~[(4)]~~ "Fraud" means fraud other than constructive fraud.

(7) ~~[(5)]~~ "Gross negligence" means more than momentary thoughtlessness, inadvertence, or error of judgment. It means such an entire want of care as to establish that the act or omission was the result of actual conscious indifference to the rights, safety, or welfare of the person affected.

~~[(6)]~~ "Malice" means:

(A) a specific intent [conduct that is specifically intended] by the defendant to cause substantial injury to the claimant; or

(B) an act or omission:

(i) which when viewed objectively from the standpoint of the actor at the time of its occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and

(ii) of which the actor has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others [that is carried out by the defendant with a flagrant disregard for the rights of others and with actual awareness on the part of the defendant that the act will, in reasonable probability, result in human death, great bodily harm, or property damage].

Sec. 41.002. APPLICABILITY. (a) This chapter applies to any [an] action in which a claimant seeks exemplary damages relating to a cause of action ~~[as defined by Section 33.001].~~

(b) This chapter establishes the maximum exemplary damages that may be awarded in an action subject to this chapter, including an action for which exemplary damages are awarded under another law of this state. This chapter does not apply to the extent another law establishes a lower maximum amount of exemplary damages for a particular claim[:

~~[(1) an action brought under the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code) except as specifically provided in Section 17.50 of that Act;~~

~~[(2) an action brought under Chapter 21, Insurance Code;~~

~~[(3) an action brought under the workers' compensation laws of this state (Article 8306 et seq., Revised Statutes);~~

~~[(4) an action to recover exemplary damages against an employer by the employee's beneficiaries in a death action arising out of the course and scope of employment where the employer is a subscriber under the workers' compensation laws of this state (Article 8306 et seq., Revised Statutes);~~

~~[(5) an action brought under Chapter 246, Acts of the 63rd Legislature, Regular Session, 1973, Home Solicitation Transactions (Article 5069-13.01 et seq., Vernon's Texas Civil Statutes);~~

~~[(6) an action brought under Chapter 547, Acts of the 63rd Legislature, Regular Session, 1973, Debt Collection Practices (Article 5069-11.01 et seq., Vernon's Texas Civil Statutes);~~

~~[(7) an action brought under Chapter 54, 91, or 92, Property Code;~~

~~[(8) an action brought under the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes);~~

~~[(9) an action brought under the Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes);~~

~~[(10) an action brought under the Texas Proprietary School Act, Chapter 32, Education Code;~~

~~[(11) an action brought under Section 9.507 or Section 27.01, Business & Commerce Code;~~

~~[(12) an action brought under Chapter 36, Family Code;~~

~~[(13) an action brought under the Health Spa Act (Article 5221i, Vernon's Texas Civil Statutes);~~

~~[(14) an action brought under the Business Opportunity Act (Article 5069-16.01 et seq., Vernon's Texas Civil Statutes); or~~

~~[(15) an action brought under the Texas Timeshare Act (Article 6573c, Vernon's Texas Civil Statutes)].~~

(c) Except as provided by Subsections (b) and (d), in [In] an action to which this chapter applies, the provisions of this chapter prevail over all other law to the extent of any conflict.

(d) Notwithstanding any provision to the contrary, this chapter does not apply to Section 15.21, Business & Commerce Code (Texas Free Enterprise and Antitrust Act of 1983), an action brought under the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code) except as specifically provided in Section 17.50 of that Act, or an action brought under Chapter 21, Insurance Code.

Sec. 41.003. STANDARDS FOR RECOVERY OF EXEMPLARY DAMAGES. (a) Except as provided by Subsection (c), exemplary [Exemplary] damages may be awarded only if the claimant proves by clear and convincing evidence that the [personal injury, property damage, death, or other] harm with respect to which the claimant seeks recovery of exemplary damages results from:

(1) fraud;

(2) malice; or

(3) wilful act or omission or gross neglect in wrongful death actions brought by or on behalf of a surviving spouse or heirs of the decedent's body, under a statute enacted pursuant to Section 26, Article XVI, Texas Constitution. In such cases, the definition of "gross neglect" in the instruction submitted to the jury shall be the definition stated in Section 41.001(7)(B) [gross negligence].

(b) The claimant must prove by clear and convincing evidence the elements of exemplary damages as provided by this section

~~[Subsection (a)(1), (a)(2), or (a)(3)].~~ This burden of proof may not be shifted to the defendant or satisfied by evidence of ordinary negligence, bad faith, or a deceptive trade practice.

~~(c) If the claimant relies on a statute establishing a cause of action and authorizing exemplary damages in specified circumstances or in conjunction with a specified culpable mental state, exemplary damages may be awarded only if the claimant proves by clear and convincing evidence that the damages result from the specified circumstances or culpable mental state.~~

Sec. 41.004. FACTORS PRECLUDING RECOVERY. (a) Except as provided by Subsection (b), exemplary [Exemplary] damages may be awarded only if damages other than nominal damages are awarded.

(b) A claimant may recover exemplary damages, even if only nominal damages are awarded, if the claimant establishes by clear and convincing evidence that the harm with respect to which the claimant seeks recovery of exemplary damages results from malice as defined in Section 41.001(7)(A). Exemplary damages may not be awarded to a claimant who elects to have his recovery multiplied under another statute.

Sec. 41.005. HARM RESULTING FROM CRIMINAL ACT. (a) In an action arising from harm resulting from an assault, theft, or other criminal act, a court may not award exemplary damages against a defendant because of the criminal act of another.

(b) The exemption provided by Subsection (a) does not apply if:

(1) the criminal act was committed by an agent or employee of the defendant;

(2) the defendant is criminally responsible as a party to the criminal act under the provisions of Chapter 7, Penal Code;

(3) the criminal act occurred at a location where, at the time of the criminal act, the defendant was maintaining a common nuisance under the provisions of Chapter 125, Civil Practice and Remedies Code, and had not made reasonable attempts to abate the nuisance; or

(4) the criminal act resulted from the defendant's intentional or knowing violation of a statutory duty under Subchapter D, Chapter 92, Property Code, and the criminal act occurred after the statutory deadline for compliance with that duty.

(c) In an action arising out of a criminal act committed by an agent or employee, the principal or employer may be liable for punitive damages but only if:

(1) the employer or principal authorized the doing and the manner of the act;

(2) the employee or agent was unfit and the employer or principal acted with malice in employing or retaining him;

(3) the employee or agent was employed in a managerial capacity and was acting in the scope of employment; or

(4) the principal or employer or a manager of the principal or employer ratified or approved the act.

Sec. 41.006. AWARD SPECIFIC TO DEFENDANT. In any action in which there are two or more defendants, an award of exemplary damages

must be specific as to a defendant, and each defendant is liable only for the amount of the award made against that defendant.

Sec. 41.007 [~~41.006~~]. PREJUDGMENT INTEREST. Prejudgment interest may not be assessed or recovered on an award of exemplary damages.

Sec. 41.008 [~~41.007~~]. LIMITATION ON AMOUNT OF RECOVERY. (a) In an action in which a claimant seeks recovery of exemplary damages, the trier of fact shall determine the amount of economic damages separately from the amount of other compensatory damages.

(b) Exemplary [~~Except as provided by Section 41.008, exemplary~~] damages awarded against a defendant may not exceed an amount equal to the greater of:

(1)(A) two [~~four~~] times the amount of economic [~~actual~~] damages; plus

(B) an amount equal to any noneconomic damages found by the jury, not to exceed \$750,000; or

(2) \$200,000 [~~, whichever is greater~~].

(c) Subsection (b) does not apply to a cause of action against a defendant from whom a plaintiff seeks recovery of exemplary damages based on conduct described as a felony in the following sections of the Penal Code if the conduct was committed knowingly or intentionally:

(1) Section 19.02 (murder);

(2) Section 19.03 (capital murder);

(3) Section 20.04 (aggravated kidnapping);

(4) Section 22.02 (aggravated assault);

(5) Section 22.011 (sexual assault);

(6) Section 22.021 (aggravated sexual assault);

(7) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(8) Section 32.21 (forgery);

(9) Section 32.43 (commercial bribery);

(10) Section 32.45 (misapplication of fiduciary property or property of financial institution);

(11) Section 32.46 (securing execution of document by deception);

(12) Section 32.47 (fraudulent destruction, removal, or concealment of writing); or

(13) Chapter 31 (theft) the punishment level for which is a felony of the third degree or higher.

(d) In this section, "intentionally" and "knowingly" have the same meanings assigned those terms in Sections 6.03(a) and (b), Penal Code.

(e) The provisions of Subsections (a) and (b) may not be made known to a jury by any means, including voir dire, introduction into evidence, argument, or instruction.

Sec. 41.009. BIFURCATED TRIAL. (a) On motion by a defendant, the court shall provide for a bifurcated trial under this section. A motion under this subsection shall be made prior to voir dire examination of the jury or at a time specified by a pretrial court order issued under Rule 166, Texas Rules of Civil Procedure.



(b) In an action with more than one defendant, the court shall provide for a bifurcated trial on motion of any defendant.

(c) In the first phase of a bifurcated trial, the trier of fact shall determine:

- (1) liability for compensatory and exemplary damages; and
- (2) the amount of compensatory damages.

(d) If liability for exemplary damages is established during the first phase of a bifurcated trial, the trier of fact shall, in the second phase of the trial, determine the amount of exemplary damages to be awarded, if any.

Sec. 41.010. CONSIDERATIONS IN MAKING AWARD. (a) Before making an award of exemplary damages, the trier of fact shall consider the definition and purposes of exemplary damages as provided by Section 41.001.

(b) The determination of whether to award exemplary damages and the amount of exemplary damages to be awarded is within the discretion of the trier of fact.

Sec. 41.011. EVIDENCE RELATING TO AMOUNT OF EXEMPLARY DAMAGES. (a) In determining the amount of exemplary damages, the trier of fact shall consider evidence, if any, relating to:

- (1) the nature of the wrong;
- (2) the character of the conduct involved;
- (3) the degree of culpability of the wrongdoer;
- (4) the situation and sensibilities of the parties concerned;
- (5) the extent to which such conduct offends a public sense of justice and propriety; and
- (6) the net worth of the defendant.

(b) Evidence that is relevant only to the amount of exemplary damages that may be awarded is not admissible during the first phase of a bifurcated trial.

Sec. 41.012. JURY INSTRUCTIONS. In a trial to a jury, the court shall instruct the jury with regard to Sections 41.001, 41.003, 41.010, and 41.011.

Sec. 41.013. JUDICIAL REVIEW OF AWARD. (a) Except as provided for in Subsection (b), an appellate court that reviews the evidence with respect to a finding by a trier of fact concerning liability for exemplary damages or with respect to the amount of exemplary damages awarded shall state, in a written opinion, the court's reasons for upholding or disturbing the finding or award. The written opinion shall address the evidence or lack of evidence with specificity, as it relates to the liability for or amount of exemplary damages, in light of the requirements of this chapter.

(b) This section does not apply to the supreme court with respect to its consideration of an application for writ of error.

[Sec. 41.008. EXCEPTION. Section 41.007 does not apply to exemplary damages resulting from malice as defined by Section 41.001(6)(A) or to an intentional tort.

~~[Sec. 41.009. PROVISIONS NOT TO BE MADE KNOWN TO JURY: The provisions of Section 41.007 may not be made known to the jury through any means, including voir dire, introduction into evidence, or instruction.]~~

SECTION 2. This Act takes effect September 1, 1995, and applies only to a cause of action that accrues on or after that date. A suit filed before the effective date of this Act is governed by the law applicable to the claim that existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### **Floor Amendment No. 1**

Amend C.S.S.B. 25 as follows:

- (1) On page 6, line 22, strike "agent or".
- (2) On page 7, strike lines 9-19 and substitute the following:  
(c) In an action arising out of a criminal act committed by an employee, the employer may be liable for punitive damages but only if:
  - (1) the principal authorized the doing and the manner of the act;
  - (2) the agent was unfit and the principal acted with malice in employing or retaining him;
  - (3) the agent was employed in a managerial capacity and was acting in the scope of employment; or
  - (4) the employer or a manager of the employer ratified or approved the act.

#### **Floor Amendment No. 1 on Third Reading**

Amend C.S.S.B. 25 on third reading in Section 1 of the bill, in the section renumbered as Section 41.008, Civil Practice and Remedies Code as follows:

- (1) In Subsection (c), between "Penal Code if" and "the conduct", insert ", except for Sections 49.07 and 49.08,".
- (2) At the end of Subsection (c)(12), strike "or".
- (3) At the end of Subsection (c)(13), before the period, insert:  
";  
(14) Section 49.07 (intoxication assault); or  
(15) Section 49.08 (intoxication manslaughter)".

The amendments were read.

On motion of Senator Sibley and by unanimous consent, the Senate concurred in the House amendments to S.B. 25 by a viva voce vote.

#### **RECORD OF VOTE**

Senator Luna asked to be recorded as voting "Nay" on concurring in the House amendments to S.B. 25.

**STATEMENT OF LEGISLATIVE INTENT**

Senator Sibley submitted the following statement of legislative intent:

I wish to clarify the language regarding the effective date of **S.B. 25**. The intent of the language is that if a cause of action accrues before September 1, 1995 then current law will apply. If a cause of action accrues on or after September 1, 1995 then the law, as adopted under **S.B. 25**, will apply.

SIBLEY

**PERMISSION TO  
INTRODUCE BILLS AND RESOLUTION**

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bills and resolution:

S.J.R. 57  
S.B. 16  
S.B. 376  
S.B. 1651  
S.B. 1652

**SENATE BILL 584 WITH HOUSE AMENDMENT**

Senator Shapiro called **S.B. 584** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **S.B. 584** as follows:

(1) On page 2, line 25 and page 3, line 1, strike "the effective date of this Act" and substitute "March 1, 1995".

The amendment was read.

Senator Shapiro moved to concur in the House amendment to **S.B. 584**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 97 WITH HOUSE AMENDMENT**

Senator Moncrief called **S.B. 97** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **S.B. 97** as follows:

On page 1, strike line 11 and substitute the following: "control or kept caged or penned."

The amendment was read.

On motion of Senator Moncrief and by unanimous consent, the Senate concurred in the House amendment to **S.B. 97** by a viva voce vote.

#### **BIRTHDAY GREETINGS**

Senator Armbrister was recognized and, on behalf of the Members, extended birthday greetings to Senate Porter Jimmie Gooden on his 70th birthday.

Senator Armbrister then presented Mr. Gooden with a birthday cake and extended the Senate's congratulations on the occasion.

#### **SENATE BILL 253 WITH HOUSE AMENDMENT**

Senator Gallegos called **S.B. 253** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### **Amendment**

Amend **S.B. 253** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to meetings of the Commissioners Court of Harris County.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 7, Chapter 17, Special Laws, Acts of the 33rd Legislature, Regular Session, 1913, is amended to read as follows:

**Sec. 7. Meetings of the** ~~[The] commissioners' court of Harris county must be in compliance with the requirements [shall meet at the court house of Harris county at 10 o'clock a. m. each Monday, or on such regular day of the week as the court may fix in its rules, as provided in Section 2, and may remain in session until the business before the court is transacted. This provision is cumulative]~~ of all ~~[other]~~ laws governing the convening of the commissioners' court, including the open meetings law, Chapter 551, Government Code ~~[and no notice of such weekly meetings shall be necessary].~~

**SECTION 2.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Gallegos and by unanimous consent, the Senate concurred in the House amendment to **S.B. 253** by a viva voce vote.

#### **CONCLUSION OF MORNING CALL**

The President at 11:25 a.m. announced the conclusion of morning call.

**SENATE BILL 249 ON SECOND READING**

Senator Bivins moved to suspend the regular order of business to take up for consideration at this time:

**S.B. 249**, Relating to a municipality's power to require citizenship as a prerequisite to employment as a peace officer.

The motion prevailed by the following vote: Yeas 22, Nays 9.

Yeas: Armbrister, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Turner, Wentworth, Whitmire.

Nays: Barrientos, Ellis, Gallegos, Luna, Montford, Rosson, Truan, West, Zaffirini.

The bill was read second time and was passed to engrossment by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Moncrief, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Turner, Wentworth, Whitmire.

Nays: Barrientos, Ellis, Gallegos, Luna, Madla, Montford, Rosson, Truan, West, Zaffirini.

**GUESTS PRESENTED**

Senator Wentworth was recognized and introduced to the Senate a group of students from Angelo State University in San Angelo.

The Senate welcomed its guests.

**SENATE BILL 341 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 341**, Relating to indemnification in certain construction contracts.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **S.B. 341** in Section 1 as follows:

(1) In the proposed Sec. 130.002(b), delete the first word "A" and insert "Except as provided by subsection (c), a"

(2) Insert a new subsection 130.002(c) to read as follows:

(c) A covenant under which a registered architect or registered engineer agrees to indemnify or hold harmless the owner or the owner's agent or employee against liability arising from the personal injury or death of the architect or engineer or the employees of the architect or engineer is enforceable.

(3) In Sec. 130.004(b), delete "Section 130.002(b)" and insert "Section 130.002(b) and (c)".

The committee amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **S.B. 341** as follows:

Amend Sec. 130.002,(b) after the word "contract" by adding the following: "for other than a single or multifamily residence"

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Barrientos asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**SENATE BILL 341 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 341** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Barrientos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**SENATE BILL 570 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 570**, Relating to the confidentiality of complaint information in the possession of the Health Professions Council.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 570 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 570** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 642 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 642**, Relating to the appraisal of property for ad valorem taxation and the assessment and collection of ad valorem taxes.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 642 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 642** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**(Senator Truan in Chair)**

**SENATE BILL 643 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 643**, Relating to the administration, imposition, collection, and enforcement of mixed beverage taxes.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 643 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 643** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 964 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 964**, Relating to the regulation of driver training; providing a penalty.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend C.S.S.B. 964, committee printing, SECTION 27. Subsection (c), page 16, line 69, by striking or driver education school, and on page 17, line 3, after the sentence ending with the word "test" by adding the following:

A driver education school may issue an instruction permit without photograph to any person eighteen (18) years of age or older who has successfully completed and passed a Texas Higher Education Coordinating Board approved six-hour adult classroom driver education course and successfully passed all parts of the driver examination required in Section 10 of this Act other than the driving test.

The amendment was read and was adopted by a viva voce vote.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend C.S.S.B. 964, committee printing, by striking in SECTION 16, page 12, lines 5 through 23.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 964 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 964 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1446 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1446, Relating to the regulation of certain motor vehicle dealers and to the sale, titling, and registration of certain motor vehicles.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1446 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1446 be placed on its third reading and final passage.



The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **SENATE BILL 1379 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 1379**, Relating to prosecutor assistance by the Office of the Attorney General of Texas; and making an appropriation.

The bill was read second time.

Senator Wentworth offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **S.B. 1379** as follows:

Strike SECTION 1 on page 1 and substitute the following:

"SECTION 1. Article 2.07, Code of Criminal Procedure, is amended by adding Subsections (e) and (f) to read as follows:

(e) In Subsections (b) and (c) of this article, "attorney for the state" includes an assistant attorney general.

(f) In Subsection (a) of this article, "competent attorney" includes an assistant attorney general."

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

#### **SENATE BILL 1379 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1379** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**(President in Chair)**

#### **COMMITTEE SUBSTITUTE**

#### **SENATE BILL 1384 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1384**, Relating to the recusal of judges on the supreme court.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend C.S.S.B. 1384 by striking proposed SECTION 1 of the bill (committee printing, page 1, lines 12-22), and substituting the following:

SECTION 1. Section 22.005, Government Code, is amended to read as follows:

Sec. 22.005. DISQUALIFICATION OF JUSTICES. (a) The chief justice may ~~shall~~ certify to the governor ~~[the following facts]~~ when one or more justices ~~[they occur]~~:

~~[(1) at least five members]~~ of the supreme court have recused themselves under the Texas Rules of Appellate Procedure or are disqualified under the constitution and laws of this state to hear and determine a case in the court~~;~~ ~~or~~

~~[(2) the justices of the court are equally divided in opinion because of the absence or disqualification of one of its members].~~

(b) The governor immediately shall commission the requisite number of persons who are active appellate or district court justices or judges and who possess the qualifications prescribed for justices of the supreme court to try and determine the case.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1384 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1384 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**MESSAGE FROM THE HOUSE**

House Chamber  
April 11, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

**S.C.R. 121**, Closing State Offices in observation of Good Friday.

**H.C.R. 162**, Honoring Dorothy and Clarence Scharbauer, Jr., for their philanthropic support of Midland College.

Respectfully,

Cynthia Gerhardt, Chief Clerk  
House of Representatives

**GUEST PRESENTED**

The President introduced to the Senate Representative Edmund Kuempel of Seguin.

The Senate welcomed Representative Kuempel.

**GUESTS PRESENTED**

Senator Truan was recognized and introduced to the Senate three students from the Texas Academy of Math and Science at the University of North Texas, who are serving as Honorary Senate Pages today: Cynthia Bahisek of Houston, Kenneth Gazzaway of Port Arthur, and Ben Molina of Robstown.

The Senate welcomed its guests.

**(Senator Harris in Chair)**

**REPORT OF COMMITTEE ON NOMINATIONS**

Senator Bivins submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be Members of the TEXAS BOARD OF CRIMINAL JUSTICE: Mayor John David Franz, Hidalgo County; Allan B. Polunsky, Bexar County; Carole S. Young, Dallas County.

To be Members of the TEXAS HIGHER EDUCATION COORDINATING BOARD: Dr. Joaquin Gonzalez Cigarroa, Jr., Webb County; Juan Jesus Hinojosa, Hidalgo County; Joseph R. Krier, Bexar County; Gwendolyn "Wendy" O'Brien Marsh, Potter County; Janie Strauss McGarr, Dallas County; Tom C. Nichols, Lubbock County; Leonard Rauch, Harris County; Carlos Villa, El Paso County.

To be a Member of the TEXAS TRANSPORTATION COMMISSION: David M. Laney, Dallas County.

To be Members of the TEXAS AGRICULTURAL FINANCE AUTHORITY BOARD OF DIRECTORS: Commissioner Bennie Claunch, Bailey County; Dr. Betty M. Condra, Lubbock County; Peggy Barnes Maddox, Mitchell County; Judge Brad Rowland, Jones County; Mary Esther Webb, Eastland County.

To be a Member of the ANGELINA AND NECHES RIVER AUTHORITY BOARD OF DIRECTORS: Dr. Janelle C. Ashley, Nacogdoches County.

To be Members of the CENTRAL COLORADO RIVER AUTHORITY BOARD OF DIRECTORS: Robert J. Cheaney, Coleman County; Patty S. Gordon, Coleman County; Sharlene Fay Taylor, Coleman County.

To be CHIEF JUSTICE OF THE COURT OF APPEALS, FOURTEENTH COURT OF APPEALS DISTRICT: Justice Paul C. Murphy, Harris County.

To be JUSTICE OF THE COURT OF APPEALS, ELEVENTH COURT OF APPEALS DISTRICT: Judge Jim R. Wright, Eastland County.

To be JUDGE OF THE 88TH JUDICIAL DISTRICT COURT, HARDIN AND TYLER COUNTIES: William D. Beggs, Hardin County.

To be Members of the TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS: Noe Cavazos, Hidalgo County; Dr. Maria T. Flores, Bexar County; Dr. Harriet H. Roberts, Harris County.

To be Members of the STATE BOARD OF EXAMINERS FOR SPEECH PATHOLOGY AND AUDIOLOGY: Dr. Jon K. Ashby, Taylor County; Dr. Linda Dulce Mora Cano, Nueces County; Deloris Marie Johnson, Harris County; Teri Mata-Pistokache, Hidalgo County; Dr. Peter S. Roland, Dallas County.

#### **NOTICE OF CONSIDERATION OF NOMINATIONS**

Senator Bivins gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

**(President in Chair)**

#### **SENATE BILL 1054 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 1054**, Relating to establishment of infrastructure funds by certain municipalities.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **RECORD OF VOTES**

Senators Rosson and Truan asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### **SENATE BILL 1054 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1054** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Patterson, Ratliff, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Leedom, Nixon, Rosson.

The bill was read third time.

Question—Shall **S.B. 1054** be finally passed?

**SENATE BILL 206 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 206**, Relating to fees and expenses for the services of a peace officer.

The bill was read second time and was passed to engrossment by the following vote: Yeas 16, Nays 14.

Yeas: Bivins, Gallegos, Galloway, Haywood, Leedom, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Sibley, Sims, Turner, West, Whitmire, Zaffirini.

Nays: Armbrister, Barrientos, Brown, Cain, Ellis, Harris, Henderson, Luna, Madla, Montford, Nixon, Rosson, Truan, Wentworth.

Absent: Lucio.

**GUESTS PRESENTED**

Senator Ellis was recognized and introduced to the Senate a group of students from Houston representing Project Rescue.

The Senate welcomed its guests.

**(Senator Truan in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 132 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 132**, Relating to the granting of pawnshop licenses and to public notification of an application for a pawnshop license in certain counties.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 132 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 132** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**SENATE BILL 39 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 39**, Relating to the making of a statement to a court and to the defendant by a victim of a criminal offense or the victim's relative or guardian.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 39 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 39** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**SENATE BILL 1014 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 1014**, Relating to promotional systems in certain police departments.

The bill was read second time.

Senator Gallegos offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **S.B. 1014** as follows:

On page 1, line 8, following "department," insert the words: which may be vetoed by the head of the police department.

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 1014 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1014** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 130 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 130**, Relating to creating the offense of transferring a handgun to a person who is the subject of a protective order and including in the law enforcement information system maintained by the Department of Public Safety information relating to protective orders.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 130 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 130** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**(President in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 1298 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1298**, Relating to the transfer of the Baylor College of Dentistry to The Texas A&M University System.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **C.S.S.B. 1298** (committee printing) as follows:

(1) On page 1 of the committee substitute, between the enacting clause and SECTION 1 of the committee substitute, insert the following:

**ARTICLE 1. BAYLOR COLLEGE OF DENTISTRY**

(2) Renumber SECTIONS 1-8 of the committee substitute as SECTIONS 1.01-1.08.

(3) Strike SECTION 9 of the committee substitute and substitute the following:

**ARTICLE 2. TEXAS A&M INTERNATIONAL UNIVERSITY**

SECTION 2.01. CHANGE OF NAME. (a) The name of Texas A&M International University is changed to The University of Texas—International.

(b) A reference in law to Texas A&M International University means The University of Texas—International.

(c) The board of regents of The University of Texas System shall conform the names of the Center for Border Economic and Enterprise Development and other components or programs operated by or in connection with Texas A&M International University on the effective date of this Act to reflect the change of the name of that university made by this Act.

**SECTION 2.02. TRANSFER.** (a) The governance, operation, management, and control of The University of Texas—International, formerly Texas A&M International University, along with all right, title, and interest in the land, buildings, facilities, improvements, equipment, supplies, and property comprising that institution, are transferred from the board of regents of The Texas A&M University System to the board of regents of The University of Texas System.

(b) The transfer made by this section includes the Center for Border Economic and Enterprise Development and all other components or programs operated by or in connection with Texas A&M International University on the effective date of this Act.

**SECTION 2.03. POWERS AND DUTIES.** The board of regents of The University of Texas System shall undertake to govern, operate, manage, and control The University of Texas—International and all land, buildings, facilities, improvements, equipment, supplies, and property comprising that institution pursuant to the powers, duties, and responsibilities conferred by law on the board of regents of The University of Texas System for the governance, operation, management, and control of component institutions comprising that system.

**SECTION 2.04. APPROPRIATIONS.** Appropriations made for the use and benefit of The University of Texas—International under the governance of the board of regents of The Texas A&M University System, including allocations under Section 62.021(a), Education Code, are transferred to the board of regents of The University of Texas System for the use and benefit of that institution. Other funds held for the use and benefit of The University of Texas—International shall continue to be available for the use and benefit of that institution notwithstanding the change in governance made by this Act.

**SECTION 2.05. CONTRACTS AND WRITTEN OBLIGATIONS.** (a) Contracts and written obligations of every kind and character, including bonds, entered into by the board of regents of The Texas A&M University System for and on behalf of The University of Texas—International are ratified, confirmed, and validated.

(b) Gift and donation agreements of every kind and character entered into by the board of regents of The Texas A&M University System for and on behalf of The University of Texas—International and gift and donation agreements of every kind and character entered into by The University of Texas—International are ratified, confirmed, and validated.

(c) In those contracts, gift and donation agreements, and written obligations, the board of regents of The University of Texas System is



substituted for and stands and acts in the place of the board of regents of The Texas A&M University System.

(d) The board of regents of The University of Texas System shall enter into an agreement with the board of regents of The Texas A&M University System to make payments to The Texas A&M University System at the same time and in the same amount as payments due on the obligations issued by the board of regents of The Texas A&M University System for the benefit of and attributable to The University of Texas—International. The obligation of the board of regents of The University of Texas System under the agreement is on a parity and of equal dignity with the obligations issued under its systemwide revenue financing system. The board of regents of The University of Texas System shall agree to any provisions necessary to assure that the board of regents of The Texas A&M University System does not violate any covenants made in proceedings authorizing obligations by virtue of actions taken or failed to have been taken by The University of Texas System.

**SECTION 2.06. EMPLOYEE INSURANCE AND OTHER BENEFITS.**

Any contract or other agreement with a provider of insurance or employee benefits that provides coverage for employees of Texas A&M International University is not void nor does it terminate on the effective date of this Act. Any such contract or agreement remains in full force and effect until its date of expiration unless it terminates before the expiration date in accordance with its terms. All persons for whom the insurance is provided on the effective date of this Act are covered by the insurance in accordance with the terms of those agreements until the respective dates of termination or expiration of those agreements. The persons covered by the agreements who are employees of The University of Texas System on the respective termination or expiration dates of those agreements shall be included in any similar agreements that relate to other employees of The University of Texas System and that are in effect on the termination or expiration dates.

**SECTION 2.07. EFFECT OF TRANSFER ON STUDENTS AND EMPLOYEES.** The transfer of governance, operation, management, and control of The University of Texas—International from the board of regents of The Texas A&M University System to the board of regents of The University of Texas System does not affect:

(1) the credit hours earned by students at that institution before the effective date of this Act; or

(2) the employment status on the effective date of this Act of the administrative, faculty, or support staff of The University of Texas—International.

**SECTION 2.08. AMENDMENT.** Section 55.1712, Education Code, is amended to read as follows:

Sec. 55.1712. THE UNIVERSITY OF TEXAS—INTERNATIONAL  
[TEXAS A&M INTERNATIONAL UNIVERSITY]. (a) The board of regents of The University of Texas [~~A&M University~~] System may acquire, purchase, construct, improve, enlarge, and equip property, buildings,

structures, facilities, roads, and related infrastructure for The University of Texas—International [~~Texas A&M International University~~].

(b) The board may finance those items listed under Subsection (a) of this section through the issuance of bonds under this subchapter and in accordance with its existing system-wide revenue financing program. The board may pledge irrevocably to the payment of those bonds all or any part of the aggregate amount of student tuition charges required or authorized by law to be imposed on students enrolled at The University of Texas—International [~~Texas A&M International University~~]. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) Bonds issued under this section may not be issued in an aggregate principal amount exceeding \$30 million.

SECTION 2.09. AMENDMENT. Subsection (a), Section 55.1713, Education Code, is amended to read as follows:

(a) In addition to the authority granted by Sections 55.13, 55.14, 55.17, 55.171, 55.1711, [~~55.1712,~~] and 55.19 of this code, the board of regents of The Texas A&M University System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for the following institutions to be financed by the issuance of bonds in accordance with this subchapter and in accordance with a systemwide revenue financing program adopted by the board in aggregate principal amounts not to exceed the following amounts:

- (1) Texas A&M University—Corpus Christi, \$22 million; and
- (2) [~~Texas A&M International University, \$36 million; and~~
- [(3)] Texas A&M University—Kingsville, \$17 million.

SECTION 2.10. Subsection (a), Section 55.1714, Education Code, is amended to read as follows:

(a) In addition to the authority granted by Sections 55.13, 55.14, 55.17, 55.1712, 55.172, and 55.19 of this code, the board of regents of The University of Texas System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for the following institutions to be financed by the issuance of bonds in accordance with this subchapter, including bonds issued in accordance with its systemwide revenue financing program and secured as provided by that program, in aggregate principal amounts not to exceed the following amounts:

- (1) The University of Texas at Brownsville, \$23.5 million;
- (2) The University of Texas at El Paso, \$23 million;
- (3) The University of Texas—Pan American, \$26 million;
- (4) The University of Texas at San Antonio, \$63.5 million;
- (5) The University of Texas Health Science Center at San Antonio, \$25 million; and
- (6) The University of Texas at Austin, \$2 million; and
- (7) The University of Texas—International, \$36 million.

SECTION 2.11. AMENDMENT. Section 61.0592, Education Code, as added by Chapter 260, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 61.0592. UPPER-LEVEL TRANSITION FUNDING FOR THE UNIVERSITY OF TEXAS—INTERNATIONAL [~~TEXAS—A&M INTERNATIONAL UNIVERSITY~~]. (a) Notwithstanding Section 61.059 of this code, a formula adopted by the board under that section that provides a differential rate for each semester credit hour between four-year general academic teaching institutions and upper-level institutions shall be modified and applied as provided by this section to The University of Texas—International [~~Texas A&M International University~~].

(b) In addition to other funding that The University of Texas—International [~~Texas A&M International University~~] is entitled to receive, the university is entitled to receive additional funds in accordance with this section.

(c) The formula for four-year general academic teaching institutions shall be applied to all lower-division semester credit hours.

(d) For the first two state fiscal years that begin after The University of Texas—International [~~Texas A&M International University~~] first admits lower-division students or offers lower-division courses, the formula for upper-level general academic teaching institutions shall be applied to upper-division semester credit hours at the university.

(e) Beginning with the third state fiscal year that begins after The University of Texas—International [~~Texas A&M International University~~] first admits lower-division students or offers lower-division courses, the formula for four-year general academic teaching institutions shall be applied to upper-division semester credit hours at the university, except that the board shall modify the formula to provide the university additional funding equal to a percent of the difference between the amount derived from the application of the four-year formula to the university's upper-division semester credit hours and the amount derived from the application of the upper-level formula to those semester credit hours. The percent to be applied to that difference is 87.5 percent for the first fiscal year to which this subsection applies and is reduced by 12.5 percentage points for each subsequent fiscal year.

SECTION 2.12. AMENDMENT. Section 69.22(e), Education Code, is amended to read as follows:

(e) The center established under this section shall cooperate fully with similar programs operated by The University of Texas—International [~~Texas A&M International University~~], The University of Texas—Pan American, and other institutions of higher education.

SECTION 2.13. AMENDMENT. Section 77.36(e), Education Code, is amended to read as follows:

(e) The center established under this section shall cooperate fully with similar programs operated by The University of Texas at El Paso, The University of Texas—International [~~Texas A&M International University~~], and other institutions of higher education.

SECTION 2.14. AMENDMENT. Subtitle C, Title 3, Education Code, is amended by adding Chapter 79 to read as follows:

CHAPTER 79. THE UNIVERSITY OF TEXAS—INTERNATIONAL

Sec. 79.001. ESTABLISHMENT; SCOPE. (a) The University of Texas—International is a coeducational institution of higher education located in the city of Laredo. The institution is a component institution of The University of Texas System and is under the management and control of the board of regents of The University of Texas System.

(b) The board has the same powers and duties concerning The University of Texas—International as are conferred on it by statute concerning The University of Texas at Austin.

(c) The institution may teach undergraduate or graduate level courses.

Sec. 79.002. COURSES AND DEGREES; RULES; JOINT APPOINTMENTS. (a) The board, with the approval of the Texas Higher Education Coordinating Board, may prescribe courses leading to customary degrees as are offered at leading American educational institutions and may award those degrees.

(b) The degrees offered by the institution may include baccalaureate, master's, and doctoral degrees and their equivalents.

(c) A new department, school, or degree program may not be instituted without the prior approval of the Texas Higher Education Coordinating Board.

(d) The board shall adopt other rules for the operation, control, and management of The University of Texas—International as may be necessary for the institution to be a first-class institution of higher education.

(e) The board may make joint faculty appointments in The University of Texas—International and in other institutions under its governance. The salary of a person who receives a joint appointment shall be apportioned to the appointing institution on the basis of services rendered.

(f) The board, with the approval of the Texas Higher Education Coordinating Board, may contract with the governing board of another general academic teaching institution as defined by Section 61.003 or with the governing board of a college or university in the United Mexican States or Canada to offer joint degree programs.

Sec. 79.003. GRADUATE SCHOOL OF INTERNATIONAL TRADE. Subject to the approval of the board and the Texas Higher Education Coordinating Board, a graduate school of international trade shall be established at The University of Texas—International.

Sec. 79.004. CENTER FOR BORDER ECONOMIC AND ENTERPRISE DEVELOPMENT. (a) The board shall establish a center for border economic and enterprise development at The University of Texas—International.

(b) The center established under this section may:

(1) develop and manage an economic database concerning the Texas-Mexico border;

(2) perform economic development planning and research;

(3) provide technical assistance to industrial and governmental entities; and

(4) in cooperation with other state agencies, coordinate economic and enterprise development planning activities of state agencies to ensure that the economic needs of the Texas-Mexico border are integrated within a comprehensive state economic development plan.

(c) The center may offer seminars and conduct conferences and other educational programs concerning the Texas-Mexico border economy and economic and enterprise development within the state.

(d) The board may solicit and accept gifts, grants, and donations to aid in the establishment, maintenance, and operation of the center.

(e) The center established under this section shall cooperate fully with similar programs operated by The University of Texas at El Paso, The University of Texas—Pan American, and other institutions of higher education.

SECTION 2.15. AMENDMENT. Section 481.060(b), Government Code, is amended to read as follows:

(b) The electronic data base advisory committee is composed of:

(1) a representative from the center for border economic and enterprise development at The University of Texas at El Paso, appointed by the president of the university;

(2) a representative from the University of North Texas Institute for Regional Industrialization and Manufacturing Technology, appointed by the president of the university;

(3) a representative from the Bureau of Business Research at The University of Texas at Austin, appointed by the president of the university;

(4) a representative from the Texas Agriculture Market and Research Center, appointed by the president of Texas A&M University;

(5) a representative from The University of Texas at San Antonio, College of Business, division of management and marketing, appointed by the president of the university;

(6) a representative from The University of Texas-Pan American, appointed by the president of the university;

(7) a representative from The University of Texas—International [~~Texas A&M International University~~], appointed by the president of the university;

(8) a representative from Texas Tech University, appointed by the president of the university;

(9) a representative from the University of Houston, appointed by the president of the university;

(10) a representative from Lamar University, appointed by the president of the university;

(11) a representative from Sul Ross State University, appointed by the president of the university; and

(12) persons appointed by the governor or the executive director of the department.

SECTION 2.16. REPEALER. Subchapter F, Chapter 87, Education Code, is repealed.

**ARTICLE 3. EFFECTIVE DATE; EMERGENCY**

**SECTION 3.01. EFFECTIVE DATE.** (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately.

(b) Article 2 of this Act takes effect September 1, 1995.

**SECTION 3.02. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

**RECORD OF VOTES**

Senators Bivins, Brown, Patterson, Turner, and Wentworth asked to be recorded as voting "Nay" on the adoption of the amendment.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE****SENATE BILL 1298 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1298** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 1299 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 1299**, Relating to abolition of the board of regents of East Texas State University and the transfer of the institutions under that board to The Texas A&M University System.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 1299 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1299** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**SENATE BILL 842 REREFERRED**

On motion of Senator Turner and by unanimous consent, **S.B. 842** was withdrawn from the Committee on State Affairs and was rereferred to the Committee on Jurisprudence.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Cain and by unanimous consent, Senate Rule 11.19 was suspended in order that the State Affairs Subcommittee on Initiative and Referendum might consider the following bill and resolutions today:

**S.J.R. 34**  
**S.J.R. 41**  
**S.J.R. 54**  
**S.B. 778**

**SENATE BILL 628 REREFERRED**

On motion of Senator Madla and by unanimous consent, **S.B. 628** was withdrawn from the Committee on Health and Human Services and was rereferred to the Committee on Economic Development.

**SENATE BILL 1115 REREFERRED**

On motion of Senator Barrientos and by unanimous consent, **S.B. 1115** was withdrawn from the Committee on State Affairs and was rereferred to the Committee on Finance.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Criminal Justice might consider **S.B. 676** today.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Sibley and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Economic Development might consider **S.B. 1502** today.

**HOUSE BILL ON FIRST READING**

The following bill received from the House was read first time and referred to the committee indicated:

**H.B. 1863** to Committee on Health and Human Services.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Health and Human Services might consider **H.B. 1863** tomorrow.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on State Affairs might consider the following bills today:

**S.B. 218**

**S.B. 1116**

**S.B. 1139**

**NOTICE OF SESSION TO HOLD  
LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Harris announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks and gave notice that a Local and Uncontested Bills Calendar would be held at 7:45 a.m. tomorrow and that all bills would be considered on second reading in the order in which they are listed.

**MOTION TO RECESS**

On motion of Senator Truan and by unanimous consent, the Senate at 1:18 p.m. agreed to recess, upon completion of the introduction of bills and resolutions on first reading, until 7:45 a.m. tomorrow for the Local and Uncontested Bills Calendar.

**(Senator Cain in Chair)**

**SENATE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

**S.J.R. 57** by Cain State Affairs  
Proposing a constitutional amendment authorizing certain persons under the age of 18 to vote in a primary election.

**S.B. 16** by Armbrister Natural Resources  
Relating to requiring a quail stamp for hunting quail; providing a penalty.

**S.B. 375** by Harris Jurisprudence  
Relating to the creation of municipal courts of record in Pantego.

**S.B. 376** by Ellis Natural Resources  
Relating to municipal solid waste disposal fees.

**S.B. 1644** by Henderson Jurisprudence  
Relating to the regulation of changes of long distance carriers; providing a penalty.

**S.B. 1650** by Truan Health and Human Services  
Relating to the establishment and operation of a regional academic health center as part of The University of Texas Health Science Center at San Antonio.



**S.B. 1651** by Turner Education  
Relating to debit cards provided to students of public institutions of higher education.

**S.B. 1652** by Zaffirini Jurisprudence  
Relating to the creation of a statutory county court in Bee County.

#### HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read first time and referred to the committees indicated:

- H.C.R. 53** to Committee on Administration.
- H.B. 160** to Committee on Intergovernmental Relations.
- H.B. 200** to Committee on Economic Development.
- H.B. 383** to Committee on State Affairs.
- H.B. 475** to Committee on Natural Resources,  
Subcommittee on Water.
- H.B. 609** to Committee on Finance.
- H.B. 645** to Committee on Intergovernmental Relations.
- H.B. 654** to Committee on State Affairs.
- H.B. 670** to Committee on Natural Resources.
- H.B. 674** to Committee on Finance.
- H.B. 767** to Committee on Jurisprudence.
- H.B. 776** to Committee on Finance.
- H.B. 941** to Committee on Criminal Justice.
- H.B. 984** to Committee on State Affairs.
- H.B. 1028** to Committee on Economic Development.
- H.B. 1029** to Committee on Economic Development.
- H.B. 1030** to Committee on Economic Development.
- H.B. 1031** to Committee on Economic Development.
- H.B. 1144** to Committee on Economic Development.
- H.B. 1187** to Committee on Natural Resources,  
Subcommittee on Water.
- H.B. 1302** to Committee on Natural Resources.
- H.B. 1323** to Committee on Economic Development.
- H.B. 1337** to Committee on Education.
- H.B. 1343** to Committee on Criminal Justice.
- H.B. 1393** to Committee on Criminal Justice.
- H.B. 1475** to Committee on Intergovernmental Relations.
- H.B. 1486** to Committee on Intergovernmental Relations.
- H.B. 1600** to Committee on Natural Resources,  
Subcommittee on Water.
- H.B. 1647** to Committee on Intergovernmental Relations.
- H.B. 1736** to Committee on Economic Development.
- H.B. 1754** to Committee on Jurisprudence.
- H.B. 2062** to Committee on Intergovernmental Relations.
- H.B. 2096** to Committee on Jurisprudence.
- H.B. 2171** to Committee on Criminal Justice.
- H.B. 2173** to Committee on Criminal Justice.

**H.B. 2183** to Committee on Intergovernmental Relations.  
**H.B. 2230** to Committee on Natural Resources.  
**H.B. 2373** to Committee on Jurisprudence.  
**H.B. 2642** to Committee on Natural Resources,  
Subcommittee on Water.  
**H.B. 2647** to Committee on Economic Development.  
**H.B. 2998** to Committee on Intergovernmental Relations.  
**H.B. 3157** to Committee on Intergovernmental Relations.

#### **LEGISLATIVE POLICY RESOLUTION**

**S.C.R. 121** - By Barrientos: Closing all state departments and agencies for a half day beginning at noon on Friday, April 14, 1995.

#### **MEMORIAL RESOLUTIONS**

**S.R. 674** - By Brown: In memory of Ruth Munson Smith of Angleton.

**S.R. 683** - By Madla: In memory of Garnett I. McCallister of Fort Stockton.

#### **WELCOME AND CONGRATULATORY RESOLUTIONS**

**S.R. 669** - By Sims: Welcoming Lloyd Aclin of Jacksonville, Arkansas, and recognizing his meritorious service during World War II.

**S.R. 670** - By Sims: Welcoming Jim Inks of Llano and recognizing his meritorious service during World War II.

**S.R. 671** - By Brown: Commending the J number emergency location system which is now ready for deployment.

**S.R. 673** - By Nixon: Recognizing Linda and Timothy Kindered and Turon Davis of Nacogdoches for their act of heroism.

**S.R. 675** - By Ellis: Congratulating Dina Hunter and Kamoru Lawal on their future marriage.

**S.R. 676** - By Ellis: Recognizing the Bay Day Festival at Sylvan Beach in La Porte.

**S.R. 677** - By Ellis: Congratulating Vahid Shariatzadeh and Nessa Sanei on their future marriage.

**S.R. 678** - By Luna: Congratulating Chad Warden of San Antonio on achieving the rank of Eagle Scout.

**S.R. 679** - By Leedom: Welcoming the seventh-grade students from Saint Rita School.

**S.R. 680** - By Whitmire, Brown, Patterson: Recognizing Dr. Carolyn L. Huntoon, Director of the Lyndon B. Johnson Space Center, for her contributions to the United States Space Program.

**S.R. 681** - By Whitmire, Brown, Patterson: Recognizing George W. S. Abbey, Deputy Director of the Lyndon B. Johnson Space Center, for his accomplishments.

**S.R. 682** - By Harris: Commending the Winston School of Dallas on the success of its 1995 Winston Solar Challenge.

**S.R. 684** - By Bivins: Recognizing James B. Francis, Jr., on his appointment to the Texas Department of Public Safety Commission.

### **RECESS**

Pursuant to a previously adopted motion, the Senate at 1:23 p.m. recessed until 7:45 a.m. tomorrow for the Local and Uncontested Bills Calendar.

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## **APPENDIX**

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### **REPORTS OF STANDING COMMITTEES**

The following committee reports were received by the Secretary of the Senate:

April 11, 1995

**FINANCE — C.S.S.B. 536, C.S.S.B. 537**

**STATE AFFAIRS — C.S.S.B. 1369, S.B. 1069, H.B. 2, S.C.R. 89, S.C.R. 95, S.C.R. 98, S.B. 653, S.B. 955 (Amended), S.B. 783, S.B. 1403, S.B. 1182, S.B. 1513, C.S.S.B. 1605, S.B. 1512, S.B. 1511, S.B. 1330, S.B. 924 (Amended), S.B. 654 (Amended), S.B. 882 (Amended), S.B. 368 (Amended), C.S.S.B. 927, S.B. 80, C.S.S.B. 1542**

**EMISSIONS AND CLEAN AIR — C.S.S.B. 178**

#### **SIGNED BY GOVERNOR**

(April 10, 1995)

**H.C.R. 10**

**H.C.R. 35**

**H.C.R. 135**

#### **SENT TO SECRETARY OF STATE**

(April 11, 1995)

**S.C.R. 117**

#### **SENT TO GOVERNOR**

(April 11, 1995)

**S.C.R. 97**

**S.C.R. 100**

**S.C.R. 111**

**S.C.R. 112**

#### **SIGNED BY GOVERNOR**

(April 11, 1995)

**S.C.R. 112**